



BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION

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JIM IRVIN
CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF)
U S WEST COMMUNICATIONS, INC.'S)
COMPLIANCE WITH § 271 OF THE)
TELECOMMUNICATIONS ACT OF 1996.)

DOCKET NO. U-0000-97-238

AT&T'S RESPONSE TO
U S WEST'S MOTION FOR
PROTECTIVE ORDER

AT&T Communications of the Mountain States, Inc. ("AT&T") respectfully submits this response to the Motion for Protective Order Regarding AT&T's First Set of Data Requests filed by U S WEST Communications, Inc. ("U S WEST") on May 8, 1998.

U S WEST opposes discovery by AT&T because a supplemental procedural order describing discovery requirements has not been issued. U S WEST's motion might legitimately be construed by the Commission as a joinder in the Motion for a Supplemental Procedural Schedule filed by interested parties on May 1, 1998. U S WEST does not contend that discovery is unnecessary in a § 271 proceeding, nor could it. See In the Matter of Application of Ameritech Michigan Pursuant to Section 271, CC Docket No. 97-137, para. 30 (August 19, 1997) ("state commissions must conduct proceedings to develop a comprehensive factual record concerning BOC compliance with the requirements of section 271"); see also, In the Matter of the Investigation into U S WEST Communications Inc.'s Compliance with 271(c), Montana Dept. of Public Service Regulation, Docket No. D97.5.87, Order No. 5982 (April 13, 1998).

Arizona Corporation Commission
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MAY 14 1998

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1 Discovery will be critical to the Commission's assessment of U S WEST's
2 compliance with the fourteen point competitive checklist contained in 47 U.S.C. § 271.
3 Contrary to U S WEST's suggestion, the Commission does not disagree. The procedural
4 order issued by the Commission on May 27, 1997, places no limits on discovery, does not
5 adopt or reject a hearing schedule, and suggests throughout that it is the Commission's goal
6 to prompt the production of relevant information by U S WEST and new entrants.
7 Moreover, as U S WEST should recall, during the meeting with Commission staff for initial
8 discussions on Section 271 procedures, the reason for selecting the 30 business day response
9 period was to allow interested parties to take discovery before responding to any U S WEST
10 filing. Discovery was always contemplated as a component of this case. Given these facts,
11 U S WEST's request for a protective order curtailing discovery is not appropriate.

12 Furthermore, U S WEST is required to respond to discovery in a Commission
13 proceeding. In Commission proceedings, the Rules of Civil Procedure for the Superior
14 Court of Arizona govern procedural issues not directly addressed by the Corporation
15 Commission Rules of Practice and Procedure ("Commission Rules"). A.A.C. R14-3-
16 101(A). Interrogatories and requests for admissions are not covered by the Commission
17 Rules. Under the Arizona Rules of Civil Procedure, U S WEST must respond to an valid
18 interrogatory within 45 days from the date of mailing. Absent a procedural order, parties
19 are not entitled to a faster response time. Because proceedings before the Commission
20 typically require much faster paced discovery, parties stipulate or the Commission orders a
21 shorter response time. The seven day response time sought by the interested parties in this
22 proceeding is reasonable given the filing dates incorporated in the May 27, 1997 procedural
23 order.

24 The appropriate response to U S WEST's concern is the prompt issuance of a
25 procedural order guiding discovery. It is also imperative that a truncated response time be
26 instituted so that interested parties may gather information through discovery channels prior
to the time their responses are due. Even without a procedural order in place, U S WEST

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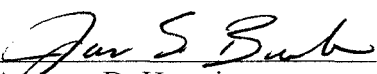
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1 must respond to AT&T's request for information. U S WEST offers no authority for its
2 refusal to respond to a valid discovery request submitted in a pending Commission
3 proceeding. For the foregoing reasons, U S WEST's Motion for Protective Order should be
4 denied by the Commission and a supplemental procedural order issued which includes the
5 procedures outlined in the joint Motion for a Supplemental Procedural Schedule filed by
6 interested parties on May 1, 1998.

7 RESPECTFULLY SUBMITTED this 14th day of May 1998.

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1 ORIGINAL and ten copies of the
2 foregoing
3 filed this 14th day of May, 1998, with:

4 Docket Control
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9 COPY of the foregoing hand-delivered
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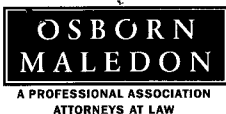
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